UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
MIDLAND DIVISION

UNITED STATES OF AMERICA,	)	
Plaintiff,	)	
	)	
v.	)	CASE NO. MO-18-CV-82
	)	
BRENDA D. SHARP,	)	
Defendant.	)	

COMPLAINT

The Plaintiff, United States of America, alleges as follows:

PARTIES

1.   Plaintiff is the United States of America.

2.   Defendant, Brenda D. Sharp is an individual residing within the jurisdiction of this

Court.

JURISDICTION

3.   This court has jurisdiction pursuant to 28 U.S.C. § 1345.

FACTS

4.   In 1991, 20 U.S.C. § 1091a[1] abolished the statute of limitations on all student loan

debts and revived any student loan claims which had been previously barred by the statute of

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[1] 20 U.S.C. § 1091a states in relevant part:

(a) In general

(1) It is the purpose of this subsection to ensure that obligations to repay loans and grant overpayments are enforced without regard to any Federal or State statutory, regulatory, or administrative limitation on the period within which debts may be enforced.

(2) Notwithstanding any other provision of statute, regulation, or administrative limitation, no limitation shall terminate the period within which suit may be filed, a judgment may be enforced, or an offset, garnishment, or other action initiated or taken by…

limitations.

5.   The Defendant for value received, executed and delivered one promissory note to secure a Direct Consolidation Loan from the United States Department of Education. The loan was made by the Department of Education under the William D. Ford Federal Direct Loan Program under Title VI-D of the Higher Education Act of 1965, as amended, 20 U.S.C. §1087a *et. seq.* (34 C.F.R. Part 685). The Defendant subsequently defaulted on the note. The transaction is more particularly set out in the Certificate of Indebtedness and accompanying note attached hereto as **Exhibit 1** and incorporated as if set forth fully herein.

6.   The note was assigned to the United States.

7.   The United States is the owner and holder of the promissory note. The Defendant has failed to pay said note according to the terms thereof. Pursuant to the note's terms, the United States declared the entire amount of indebtedness evidenced by the note immediately due and payable.

8.   Accordingly, Defendant owes a debt to the United States in the amount of $47,022.48 (representing $33,879.65 in principal and interest of $13,142.83 through October 11, 2017 as more fully set forth on the Certificate of Indebtedness attached hereto as **Exhibit 1**. Defendant also owes additional pre-judgment interest, which continues to accrue at the rate of $3.24 per day from October 12, 2017 until judgment is entered herein. Plaintiff is further entitled to interest thereafter at the post judgment rate as provided by law until the judgment is paid in full.

WHEREFORE, plaintiff prays for judgment against Defendant:

a.   In the amount of $47,022.48 (representing $33,879.65 in principal and interest of $13,142.83 through October 11, 2017) as more fully set forth on the Certificate of Indebtedness attached hereto as Exhibit 1;

b.   Pre-judgment interest from the date of the Certificate of Indebtedness until date of

judgment at the rate of $3.24 per day from October 12, 2017 until judgment is entered;

c.   Interest thereafter at the post judgment rate as provided by law until the judgment

is paid in full;

d.   For its costs and attorney's fees incurred herein; and

e.   For such other relief as the Court deems just.

Respectfully submitted,

JOHN F. BASH
UNITED STATES ATTORNEY

By: */s/ Steven E. Seward*
        STEVEN E. SEWARD
        Assistant United States Attorney
        Florida Bar No. 29546
        601 N.W. Loop 410, Suite 600
        San Antonio, Texas 78216
        T: (210) 384-7259
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        E-mail: steven.seward@usdoj.gov

        ATTORNEY FOR UNITED STATES

U. S. DEPARTMENT OF EDUCATION
SAN FRANCISCO, CALIFORNIA

CERTIFICATE OF INDEBTEDNESS #1 OF 1

BRENDA D SHARP
AKA BRENDA SHARP
███████████████

MIDLAND, TX 79701
Account No. XXXXX4517

I certify that U.S. Department of Education records show that the BORROWER named above is indebted to the United States in the amount stated below plus additional interest from 10/11/17.

On or about 12/28/04, the BORROWER executed a promissory note to secure a Direct Consolidation loan from the U.S. Department of Education. This loan was disbursed for $13,368.86 & $19,948.89 on 01/20/05 at 3.5 % interest per annum. The loan was made by the Department under the William D. Ford Federal Direct Loan Program under Title IV, Part D of the Higher Education Act of 1965, as amended, 20 U.S.C. 1087a et seq. (34 C.F.R. Part 685). The Department demanded payment according to the terms of the note, and the BORROWER defaulted on the obligation on 05/11/06. Pursuant to 34 C.F.R. § 685.202(b), a total of $561.90 in unpaid interest was capitalized and added to the principal balance.

The Department has credited a total of $1,679.35 in payments from all sources, including Treasury Department offsets, if any, to the balance. After application of these payments, the BORROWER now owes the United States the following:

Principal:	$33,879.65
Interest:	$13,142.83
Total debt as of 10/11/17:	$47,022.48

Interest accrues on the principal shown here at the rate of $3.24 per day.

Pursuant to 28 U.S.C. § 1746(2), I certify under penalty of perjury that the foregoing is true and correct.

Executed on: \\/ ९ \ \ꝰ
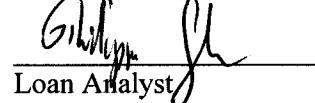
_____
Loan Analyst
Litigation Support Unit

Philippe Guillon
Loan Analyst

EXHIBIT 1

▌

Promissory Note   Page 1 of 3

Borrower's Name: BRENDA SHARP
Borrower's Social Security Number: ███ 4517   JAN 0 5 2005

REPAYMENT PLAN SELECTION

Carefully read question #5, "What are my repayment plan options?," on the "Frequently Asked Questions" Page to understand the repayment plans available to you. Then, complete this section to select your repayment plan. Remember--

- All student loans must be repaid under the same repayment plan. Parent PLUS loans may be repaid under a different repayment plan.
- If you select the Income Contingent Repayment Plan, you must complete the "Repayment Plan Selection" AND "Income Contingent Repayment Plan Consent to Disclosure of Tax Information" forms. Both forms can be downloaded from the "Forms and Publications" Page. **Your selection cannot be processed without these forms.**
- **If you want to consolidate a defaulted student loan(s) and you have not made a satisfactory repayment arrangement with your current holder(s), you must select the Income Contingent Repayment Plan.**

Place an "X" in the box that corresponds to your repayment plan selection for each loan type. Note that Direct PLUS Consolidation Loans cannot be repaid under the Income Contingent Repayment Plan.

		Income Contingent	Standard	Extended	Graduated
STUDENT LOANS	*Direct Subsidized and Unsubsidized Consolidation Loans:*	X			
PARENT LOANS	*Direct Plus Consolidation Loans:*	N/A			

PROMISSORY NOTE

Promise to Pay:
I promise to pay to the U.S. Department of Education (ED) all sums (hereafter "loan" or "loans") disbursed under the terms of this Promissory Note (note) to discharge my prior loan obligations, plus interest, and other fees that may become due as provided in this note. If I fail to make payments on this note when due, I will also pay collection costs including but not limited to attorney's fees and court costs. If ED accepts my application, I understand that ED will on my behalf send funds to the holder(s) of the loan(s) selected for consolidation in order to pay off this loan(s). I further understand that the amount of this loan will equal the sum of the amount(s) that the holder(s) of the loan(s) verified as the payoff balance(s) on that loan(s) selected for consolidation. My signature on this note will serve as my authorization to pay off the balance(s) of the loan(s) selected for consolidation as provided by the holder(s) of such loan(s).

This amount may be more or less than the estimated total balance I have indicated in the Loan Information Section. Further, I understand that if any collection costs are owed on the loans selected for consolidation, these costs may be added to the principal balance of the consolidation loan.

I understand that this is a Promissory Note. I will not sign this note before reading it, including the text on the reverse side, even if I am advised not to read the note. I am entitled to an exact copy of this note and a statement of the Borrower's Rights and Responsibilities. My signature certifies that I have read, understand, and agree, to the terms and conditions of this note, including the Borrower Certification and Authorization printed on the reverse side and the Borrower's Rights and Responsibilities.

If consolidating jointly with my spouse, we agree to the same terms and conditions contained in the Borrower Certification and Authorization. In addition, we confirm that we are legally married to each other and understand and agree that we are and will continue to be held jointly and severally liable for the entire amount of the debt represented by the Federal Direct Consolidation Loan without regard to the amounts of our individual loan obligations that are consolidated and without regard to any change that may occur in our marital status. We understand that this means that one of us may be required to pay the entire amount due if the other is unable or refuses to pay. We understand that the Federal Direct Consolidation Loan we are applying for will be cancelled only if both of us qualify for cancellation. We further understand that we may postpone repayment of the loan only if we provide ED with written requests that confirm Federal Direct Consolidation Loan Program deferment or forbearance eligibility for both of us at the same time.

I UNDERSTAND THAT THIS IS A FEDERAL LOAN THAT I MUST REPAY.
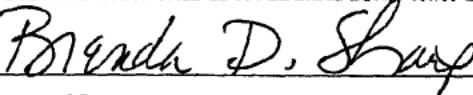
Brenda D. Sharp   _12-28-04_
Signature of Borrower   Date

_____   _____
Signature of Spouse(if consolidating jointly)   Date

EXHIBIT 1

JS 44 (Rev. 12/12)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. *(SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)*

I. (a) PLAINTIFFS

DEFENDANTS

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) Attorneys *(Firm Name, Address, and Telephone Number)*

Attorneys *(If Known)*

II. BASIS OF JURISDICTION *(Place an "X" in One Box Only)*

❏ 1 U.S. Government
     Plaintiff

❏ 3 Federal Question
     (U.S. Government Not a Party)

❏ 2 U.S. Government
     Defendant

❏ 4 Diversity
     (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES *(Place an "X" in One Box for Plaintiff*
(For Diversity Cases Only)   *and One Box for Defendant)*

	PTF	DEF		PTF	DEF
Citizen of This State	❏ 1	❏ 1	Incorporated *or* Principal Place of Business In This State	❏ 4	❏ 4
Citizen of Another State	❏ 2	❏ 2	Incorporated *and* Principal Place of Business In Another State	❏ 5	❏ 5
Citizen or Subject of a Foreign Country	❏ 3	❏ 3	Foreign Nation	❏ 6	❏ 6

IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
❏ 110 Insurance	**PERSONAL INJURY** **PERSONAL INJURY**	❏ 625 Drug Related Seizure of Property 21 USC 881	❏ 422 Appeal 28 USC 158	❏ 375 False Claims Act
❏ 120 Marine	❏ 310 Airplane ❏ 365 Personal Injury -	❏ 690 Other	❏ 423 Withdrawal 28 USC 157	❏ 400 State Reapportionment
❏ 130 Miller Act	❏ 315 Airplane Product Product Liability			❏ 410 Antitrust
❏ 140 Negotiable Instrument	Liability ❏ 367 Health Care/			❏ 430 Banks and Banking
❏ 150 Recovery of Overpayment	❏ 320 Assault, Libel & Pharmaceutical		**PROPERTY RIGHTS**	❏ 450 Commerce
& Enforcement of Judgment	Slander Personal Injury		❏ 820 Copyrights	❏ 460 Deportation
❏ 151 Medicare Act	❏ 330 Federal Employers' Product Liability		❏ 830 Patent	❏ 470 Racketeer Influenced and
❏ 152 Recovery of Defaulted	Liability ❏ 368 Asbestos Personal		❏ 840 Trademark	Corrupt Organizations
Student Loans	❏ 340 Marine Injury Product			❏ 480 Consumer Credit
(Excludes Veterans)	❏ 345 Marine Product Liability			❏ 490 Cable/Sat TV
❏ 153 Recovery of Overpayment	Liability **PERSONAL PROPERTY**	**LABOR**	**SOCIAL SECURITY**	❏ 850 Securities/Commodities/
of Veteran's Benefits	❏ 350 Motor Vehicle ❏ 370 Other Fraud	❏ 710 Fair Labor Standards	❏ 861 HIA (1395ff)	Exchange
❏ 160 Stockholders' Suits	❏ 355 Motor Vehicle ❏ 371 Truth in Lending	Act	❏ 862 Black Lung (923)	❏ 890 Other Statutory Actions
❏ 190 Other Contract	Product Liability ❏ 380 Other Personal	❏ 720 Labor/Management	❏ 863 DIWC/DIWW (405(g))	❏ 891 Agricultural Acts
❏ 195 Contract Product Liability	❏ 360 Other Personal Property Damage	Relations	❏ 864 SSID Title XVI	❏ 893 Environmental Matters
❏ 196 Franchise	Injury ❏ 385 Property Damage	❏ 740 Railway Labor Act	❏ 865 RSI (405(g))	❏ 895 Freedom of Information
	❏ 362 Personal Injury - Product Liability	❏ 751 Family and Medical		Act
	Medical Malpractice	Leave Act		❏ 896 Arbitration
REAL PROPERTY	**CIVIL RIGHTS** **PRISONER PETITIONS**	❏ 790 Other Labor Litigation		❏ 899 Administrative Procedure
❏ 210 Land Condemnation	❏ 440 Other Civil Rights **Habeas Corpus:**	❏ 791 Employee Retirement	**FEDERAL TAX SUITS**	Act/Review or Appeal of
❏ 220 Foreclosure	❏ 441 Voting ❏ 463 Alien Detainee	Income Security Act	❏ 870 Taxes (U.S. Plaintiff	Agency Decision
❏ 230 Rent Lease & Ejectment	❏ 442 Employment ❏ 510 Motions to Vacate		or Defendant)	❏ 950 Constitutionality of
❏ 240 Torts to Land	❏ 443 Housing/ Sentence		❏ 871 IRS—Third Party	State Statutes
❏ 245 Tort Product Liability	Accommodations ❏ 530 General		26 USC 7609	
❏ 290 All Other Real Property	❏ 445 Amer. w/Disabilities - ❏ 535 Death Penalty			
	Employment **Other:**	**IMMIGRATION**		
	❏ 446 Amer. w/Disabilities - ❏ 540 Mandamus & Other	❏ 462 Naturalization Application		
	Other ❏ 550 Civil Rights	❏ 465 Other Immigration		
	❏ 448 Education ❏ 555 Prison Condition	Actions		
	❏ 560 Civil Detainee -			
	Conditions of			
	Confinement			

V. ORIGIN *(Place an "X" in One Box Only)*

❏ 1 Original
     Proceeding

❏ 2 Removed from
     State Court

❏ 3 Remanded from
     Appellate Court

❏ 4 Reinstated or
     Reopened

❏ 5 Transferred from
     Another District
     (specify)

❏ 6 Multidistrict
     Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing *(Do not cite jurisdictional statutes unless diversity)*:

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

❏ CHECK IF THIS IS A **CLASS ACTION** UNDER RULE 23, F.R.Cv.P.

DEMAND $

CHECK YES only if demanded in complaint:
JURY DEMAND: ❏ Yes ❏ No

VIII. RELATED CASE(S) IF ANY

(See instructions):   JUDGE _____   DOCKET NUMBER _____

DATE   SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____   AMOUNT _____   APPLYING IFP _____   JUDGE _____   MAG. JUDGE _____